

The Specification has been amended to capitalize tradenames at each occurrence.

An Abstract of the Disclosure has been added.

New Claim 4 has been added to distinctly claim particular embodiments of the invention by claiming particular amphoteric polymers that may be used in the invention. Basis lies, at least, at page 3, line 20 through page 4, line 34, of the Application as originally filed.

New Claim 5 has been added to distinctly claim particular embodiments of the invention by claiming particular amphoteric polymers that may be used in the invention. Basis lies, at least, at page 4, lines 26-29, of the Application as originally filed.

New Claim 6 has been added to distinctly claim particular embodiments of the invention by claiming particular amphoteric polymers that may be used in the invention. Basis lies, at least, at page 4, lines 34-35, of the Application as originally filed.

New Claim 7 has been added to distinctly claim particular embodiments of the invention by claiming particular amphoteric polymers that may be used in the invention. Basis lies, at least, at page 6, line 26 through page 7, line 2, of the Application as originally filed.

New Claim 8 has been added to distinctly claim particular embodiments of the invention by claiming particular anionic polymers that may be used in the invention. Basis lies, at least, at page 7, lines 32-33, of the Application as originally filed.

New Claim 9 has been added to distinctly claim particular embodiments of the invention by claiming particular cationic polymers that may be used in the invention. Basis lies, at least, at page 13, lines 14-19, of the Application as originally filed.

New Claim 10 has been added to distinctly claim particular embodiments of the invention by claiming particular cationic polymers that may be used in the invention. Basis lies, at least, at page 15, line 6, of the Application as originally filed.

New Claim 11 has been added to distinctly claim particular embodiments of the invention by claiming particular cationic polymers that may be used in the invention. Basis lies, at least, at page 15, lines 22-23, of the Application as originally filed.

New Claim 12 has been added to distinctly claim particular embodiments of the invention by claiming particular solvents that may be used in the invention. Basis lies, at least, at page 15, lines 30-34, of the Application as originally filed.

New Claim 13 has been added to distinctly claim particular embodiments of the invention by claiming particular non-ionic surfactants that may be used in the invention. Basis lies, at least, at page 17, lines 1-34, of the Application as originally filed.

Formal Matters

Examiner indicates that this application does not contain an abstract of the disclosure as required by 37 C.F.R. §1.72(b). In response, Applicant submits herewith an abstract on a separate sheet.

Examiner also indicates that Applicant has used several tradenames in the Specification without capitalizing them. In response, Applicant has amended the Specification to capitalize tradenames at each occurrence. Regarding the name "Polyquaternium," Applicant submits that this is not a tradename. Rather, in generally accepted chemical nomenclature, the term is descriptive of a class of quaternary ammonium compounds, wherein particular compounds are named by number, e.g. Polyquaternium-4. Such numbered compounds may then be available under a tradename, e.g. one manufacturer sells Polyquaternium-4 under the name CELQUAT L200 (available from National Starch). See *Int'l Cosmetic Ingredient Dictionary and Handbook*, The Cosmetic, Toiletry, and Fragrance Assoc., Inc., 8th ed. (1999), pages 1140-1147.

35 U.S.C. § 103

Under 35 U.S.C. §103(a), Claims 1-3 were rejected as being unpatentable over U.S. Pat. No. 4,240,450, issued to Grollier, et al. [hereinafter "Grollier"]. Applicant respectfully traverses these rejections as applied to Claims 1-13 in view of the arguments presented herein.

Brief Summary of Grollier

Grollier relates to compositions for the treatment of keratin material, in particular human hair, skin and nails, comprising a combination of a cationic polymer with an anionic polymer. Grollier states that the anionic polymer can be retained well on the hair, even after rinsing, when applied with the cationic polymer.

Examiner's Contentions and Applicant's Arguments

To establish a *prima facie* case of obviousness, under 35 U.S.C. §103, three elements must be met: (a) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; and (b) there must be a reasonable expectation of success; and (c) the prior art reference(s) must teach or suggest all the claim limitations. *In re Fine*, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Merck & Co., Inc.*, 231 USPQ 375 (Fed. Cir. 1986); *In re Royka*, 180 USPQ 580 (CCPA 1974). See also, MPEP 2142. Applicant submits that the reference cited by Examiner fails to establish a *prima facie* case of obviousness.

Examiner states that Grollier discloses hair treatment compositions comprising 0.01% to 10%, by weight, anionic polymers, 0.01% to 10%, by weight, cationic polymers, and optionally amphoteric polymers and non-ionic surfactants. Examiner contends that it would have been obvious to one of ordinary skill in the art to use amphoteric polymers, anionic polymers, and cationic polymers in a hair treatment composition because Grollier teaches that such a formulation is efficacious as a hair treatment composition. Further, Examiner contends that it would have been obvious to add non-ionic surfactants, and that it would have been obvious to formulate Applicant's compositions as a hair spray.

Grollier does not teach or suggest a hair styling composition comprising, by weight: (a) from about 0.2% to about 5% of an anionic polymer; (b) from about 0.2% to about 5% of a cationic polymer; (c) from about 0.2% to about 5% of an amphoteric polymer; and (d) a solvent; wherein the total of components (a), (b), and (c) is from about 0.6% to about 15%, and wherein the level of the component comprised at the lowest level among components (a), (b), and (c) is at least about 5% of that of the component comprised at the highest level among components (a), (b), and (c).

Grollier simply mentions that their compositions "may contain" or "can contain" an amphoteric polymer (col. 44, lines 39-41; col. 49, lines 23-31). Applicant finds no teaching or suggestion to modify the compositions of Grollier to include from about 0.2% to about 5% of an amphoteric polymer, and to formulate the modified composition such that the sum of the anionic, cationic, and amphoteric polymers does not exceed 15%, and further to formulate the modified composition such that the polymer component that is comprised at the lowest level is present at an amount at least about 5% of the polymer component that is comprised at the highest level, as required by Applicant's claims. Applicant does not find any examples that teach the use of a blend of the three types of polymers, and further Applicant does not find any examples that teach the particular levels and ratios required by Applicant's claims.

It is believed that the compositions comprising all three types of polymers, at levels and ratios as defined in Applicant's claims, provide flexible and good holding film texture, which cannot be achieved by single use of or combination of two of any of the types of polymers (Specification at page 2, lines 15-20). Compositions meeting all of these limitations are not taught or suggested in Grollier. Nor does Grollier teach or suggest compositions that meet the limitations of Applicant's claim that further comprise non-ionic surfactants, or that are formulated as hair sprays. Accordingly, Applicant submits that the rejection is improper and should be withdrawn.

Conclusion

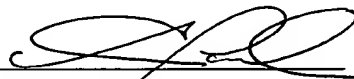
Applicant has made an earnest effort to place their Specification and Abstract in proper form and to distinguish his Claims from the applied art.

WHEREBY, Applicant respectfully requests consideration of the remarks made herein and allowance of Claims 1-13.



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